



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,833	07/01/2003	Mark Deem	020979-000510US	3863
20350	7590	04/28/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			GHERBI, SUZETTE JAIME J	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,833

Applicant(s)

DEEM ET AL.

Examiner

Suzette J Gherbi

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 and 27-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 16-28 and 37-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/17/03, 2/5/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species A (Figure 1) and claims 1-7, 16-28, and 37-40 in the reply filed on 4/6/05 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 16, 21-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Ouriel et al. 2004/0117003. Ouriel et al. discloses the invention as claimed noting figures 1-13 comprising: A method for treating an aneurysm by delivering at least one therapeutic agent at a location near the aneurysm wherein the agent is releasably carried by at least one device (see [0123]); wherein the device has at least one stent member for engaging a portion of a blood vessel in which the aneurysm is located (44); wherein the device has a tubular member coupled with the stent member (30); wherein

Art Unit: 3738

the device also has a first stent member for anchoring (46) the device and a skirt member; the skirt member having a proximal end (40) and a distal end (16 converging area) the skirt member extending from the stent in a direction towards the aneurysm; wherein the device also has a second stent member coupled with the first stent member (42, 48).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17-20 and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouriel et al in view of Hoffman Jr. et al. 5,197,977. Ouriel et al. has been disclosed above noting section [0123] however Ouriel et al. does not limit the type of drugs that can be associated with the device. Hoffman, Jr. et al. teaches a bifurcated graft that incorporates the use of collagen fixed to the graft substrate in combination with the use of antibacterial agents such as tetracycline (see col. 5, lines 59-70 and col. 6, lines 13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to take the invention of Ouriel et al. and incorporate collagen and tetracycline as taught by Hoffman, Jr. et al. because both devices are bifurcated,

Art Unit: 3738

polymer based grafts used for the treatment of aneurysms and both polymers and devices are capable of carrying such agents.

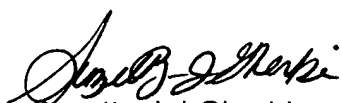
Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Borg et al. 2004/0220653 ; Aboul-Hosn 2004/0210300 ; Cook et al. 2004/0082989 ; Chobotov e tal. 2003/0120338 ; and Kujawski 2002/0013620 all show related material..

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J. Jackson whose work schedule is Monday-Friday 9-6:30 off every other Friday and whose telephone number is 571-272-4751.

8. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Suzette J-J Gherbi
26 April 2005